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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,967	11/03/2000	Jeff A. Josten	STL000039US1/1715P	5056
7590	12/03/2004		EXAMINER	
SAWYER LAW GROUP LLP			PANNALA, SATHYANARAYA R	
P.O. Box 51418			ART UNIT	PAPER NUMBER
Palo Alto, CA 94303			2167	

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/705,967	JOSTEN ET AL. <i>[Signature]</i>	
	Examiner	Art Unit	
	Sathyaranarayan Pannala	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 May 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2,3,5,6,8,9,11,12,14,15,17,18 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2,3,5,6,8,9,11,12,14,15,17,18 and 23-28 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. Applicant's Amendment filed on 5/28/2003 has been entered including added claims are 26-28. Claims 2-3, 5-6, 8-9, 11-12, 14-15, 17-18 and 23-28 are pending in this Office Action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 26-28 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that claims 26-28 fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in the reply filed on 5/28/2003. In that paper, applicant has stated as (New claims 26-28 and specification p. 4, lines 21 – p. 5, line 3), and this statement indicates that the invention is different from what is defined in the claim(s) because the specification do not support, rather it is adopted form the prior art.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2-3, 5-6, 8-9, 11-12, 14-15, 17-18 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haderle et al. (US Patent 6,185,699) and in view of Watts et al. (US Patent 6,275,832).

6. As per independent claims 23-25, Haderle rendered by the following:
“determining that at least one computer system of the plurality of computer systems has failed” at Fig. 1, col. 5, lines 47-49;
“performing a restart operation on the failed system to free the retained locks using only shared processor resources determined to be necessary for performing the restart operation” at Fig. 1, col. 5, lines 53-57.
Haderle does not teach specifically retaining locks at the time of restarting the system after failure. However, Watts teaches the following:

"retaining a plurality of locks held by the failed system in response to the failure"

at Fig. 3, col. 7, line 65 to col. 8, line 14.

Thus, it would have been obvious to one ordinarily skilled in the art at the time of the invention to incorporate computer-programming instructions to convert nonstandard database record to a standard database record. Haderle and Watts are combined as they teach recovery techniques from database failure and to retain of locks during database restarting time. In order to undo a transaction backout from system failure retained lock information is useful.

7. As per dependent claims 2, 8, 14, Watts teaches "allowing another system of the plurality of systems to retain the plurality of locks of the at least one system" at Fig. 3, col. 7, line 65 to col. 8, line 14.

8. As per dependent claims 3, 9, 15, Haderle teaches the following:

"allowing another system of the plurality of systems to restart the at least one system" at Fig. 1, col. 5, lines 53-54;

"allowing the at least one system to terminate in a normal fashion" at Fig. 2, col. 6, lines 49-54.

Watts teaches the following:

"recovering data being protected by the retained locks of the at least one system utilizing only the shared processor resources of the another system determined

to be necessary for performing the restart operation" at Fig. 3, col. 7, line 65 to col. 8, line 14.

9. As per dependent claims 5, 11, 17, 22, Haderle teaches the following:
"providing a request to restart the at least one system" at Fig. 1, col. 5, lines 53-54;
"allowing the another system to detect the request" at Fig. 2, col. 6, lines 49-52;
"allowing the another system to restart the at least one system based on the request utilizing only the shared processor resources determined to be necessary for performing the restart operation" at Fig. 1, col. 5, lines 53-60.
10. As per dependent claims 6, 12, 18, Watts teaches "the plurality of locks comprise a plurality of data locks" (Examiner interprets locks are pertaining to data since they are pertaining to data transactions) at Fig. 3, col. 8, lines 6-13.

Response to Arguments

11. Applicants' arguments filed on 5/28/2004 have been fully considered but they are not persuasive as stated below:

First, Applicants' argument stated as "Resources that do not facilitate the recovery of the data are not used during the restart. Such resources include

allowing the failed computer system to accept new work (New claims 26-28 and specification p. 4, lines 21-p. 5, line 3)"

In response to the Applicants' argument, the prior art by Haderle and Watts still teaches all claims its limitations. For information, Haderle teaches restarting the system automatically in response to the failure, or waits for a user command to restart, the recovery mechanism makes an analysis pass through the log from the last check-point forward (at Fig. 1, col. 5, lines 54-60). Whereas Watts teaches retaining locks to recover the system from failure (at Fig. 3, col. 7, line 65 to col. 8, line 14). The new claims 26-28 are not supported by the specification and claiming the part to over ride the prior art. In the abstract of Haderle et al. (US Patent 6,185,699) stated as "An amount of restart recovery processing may be postponed until after the DBMS has begun accepting new work requests." It clearly means that the restart recovery processing postponed whenever necessary but not always. So that is an additional feature in comparison to the current invention.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (571) 272-4115. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the
Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sdp
Sathyaranayan Pannala
Examiner
Art Unit 2167

srp
November 24, 2004



GRETA ROBINSON
PRIMARY EXAMINER

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